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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,812	07/15/2003	Joseph J. Tracy	29757/AG40-CON	7656

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EXAMINER	
CAPRON, AARON J	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,812	TRACY ET AL.	
	Examiner	Art Unit	
	Aaron J. Capron	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-68* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-68* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 24, there is insufficient antecedent basis for the limitation "the order request time."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldman et al. (U.S. Patent No. 4,191,376; hereafter "Goldman").

Goldman discloses selecting one winning number having an award; providing players to request a number of a series of numbers (players can buy more than one); issuing numbers (serial numbers) in order of request time where the numbers are different from other issued numbers (4:35-62); and making an award to the player based on the number matching the winning number (1:62-2:3). Goldman determines that other indicia may be used to determine the outcome of the

game and the serial number is determined to be a form of indicia that indicates and further verifies the lottery number.

Referring to claims 2-5, Goldman discloses that the numbers are consecutive accordion folded strips where the tickets can be sold either in a forward or reverse manner.

Referring to claims 6-9, Goldman discloses that players purchase one or more consecutive tickets in order to win prizes (1:20-23).

Referring to claims 12-14, Goldman discloses that multiple ticket numbers may be winners and the reward for each winning ticket the prize may be equal or differing depending upon the predetermined winning pattern or number(2:3-5).

Claims 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Pool Party.

Referring to claims 49-52, Pool Party discloses a plurality of persons selecting a time when he/she expects the baby to be born, and if the baby is born in that specific time, the player receives an award.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman.

Referring to claim 10-11, Goldman discloses that it is well known to shuffle the cards in order to ensure that the lottery tickets are not in consecutive order and that the tickets are in a random order (3:61-4:4)

Claims 15-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman in view of Schneier et al (U.S. Patent No. 5,871,398; hereafter "Schneier").

Referring to claims 15-18, Goldman discloses having awards of differing value, but does not specifically disclose that magnitudes of the awards of differing value according to a multi-tiered scheme. However, Schneier discloses that the magnitudes of the awards of differing value according to a multi-tiered scheme that controls the frequency, the number of winning numbers in a series and the intervals of winning numbers (1:42-2:9 and 2:30-61) in order for the lottery system to be profitable. One would be motivated to combine Goldman's lottery system with Schneier's network lottery game in order to allow Goldman's lottery system to save money by eliminating unnecessary costs (3:34-40) and therefore creating a more profitable lottery system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Schneier's network lottery system into Goldman's lottery system in order to create a more profitable lottery system.

Referring to claims 19-20, Goldman in view of Schneier disclose a game of chance over a distributed network comprising a plurality of game terminals, each game terminal having a communication link associable therewith (Schneier: Figure 1 and 23:11-20).

Referring to claim 21, Goldman in view of Schneier disclose that each player has their own account in order to buy lottery tickets online (Schneier: 7:13-16). However, it is well

known in the art of gaming to allow other players to and/or a player's computer to wager for the pertaining player in case the pertaining player cannot make the wager at that time. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow other players to wager for the pertaining player into Goldman and Schneier's lottery system in order to accommodate for the pertaining player who wants to make a wager, but can't make the game in time.

Referring to claim 22, Goldman in view of Schneier disclose that the order of request time is determined as the time of placement of the request for a number at a game terminal (7:26-48 and 17:36-42).

Referring to claim 23, Goldman in view of Schneier disclose a remote central controller accessible by each game terminal via the communication link associable therewith (Figure 1), and further comprising making requests for tickets having identification numbers at game terminals of the plurality, transmitting the request for tickets from the terminal and issuing the tickets from the remote central controller.

Referring to claim 24, Goldman in view of Schneier disclose the order request time in determined as the time of placement of the request for a number at a game terminal (7:26-48 and 17:36-42).

Referring to claim 25, Goldman in view of Schneier disclose generating at a game terminal at which a request was made at least on tangible manifestation of the request time (17:53-59), the at least on issued number associated with the request time and the at least one winning number responsive to each made request transmitted by the game terminal at which that request was made.

Claims 26-37 and 41-48 correspond in scope to a method set forth for use of the structure listed in claims listed above and are encompassed by use as set forth in the rejection above.

Referring to claims 38 and 40, Goldman in view of Schneier disclose circuitry of the central controller and circuitry of each of the gaming terminals for maintaining the clock of the central controller and the clocks of the game terminals in substantial synchronicity (9:12-26).

Referring to claim 39, Goldman in view of Schneier disclose the circuitry for the game terminals and game server, but does not specifically disclose that the time for both the game server and terminals are synchronized. However, it is notoriously well known in the gaming art that gaming systems based upon time have gaming servers and player terminals that allow the each of their respective clocks to be synchronized in order to maintain accurate records for verification and auditing purposes. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to synchronize the gaming server and terminals to the lottery system of Goldman in view Schneier in order to maintain accurate records for verification and auditing purposes.

Claims 53-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool Party in view of Schneier.

Pool Party discloses a pool raffle, but does not disclose that the pool raffle can be done over a website. However, Schneier discloses that a lottery can be executed over a network which includes a server and gaming terminals. Microsoft Reference defines a raffle as "A lottery in which a number of persons buy chances to win a prize." One would be motivated to add a pool raffle to a website in order to allow for more participants which would enhance the potential

payout for the increased participant base. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the Pool Party raffle into a website in order to allow for more participants which would enhance the potential payout.

Referring to claims 54, Pool Party in view of Schneier disclose a game of chance over a distributed network comprising a plurality of personal game terminals, each game terminal having a communication link associable therewith (Schneier: Figure 1 and 23:11-20).

Referring to claim 55, Pool Party in view of Schneier disclose a remote central controller accessible by each game terminal via the communication link associable therewith (Figure 1), and further comprising making requests for tickets having identification numbers at game terminals of the plurality, transmitting the request for tickets from the terminal and issuing the tickets from the remote central controller.

Referring to claim 56, Pool Party in view of Schneier disclose generating at a game terminal at which a request was made at least on tangible manifestation of the request time (17:53-59), the at least on issued number associated with the request time and the at least one winning number responsive to each made request transmitted by the game terminal at which that request was made.

Claims 57-61 correspond in scope to a method set forth for use of the structure listed in claims listed above and are encompassed by use as set forth in the rejection above.

Referring to claims 62 and 64, Pool Party in view of Schneier disclose circuitry of the central controller and circuitry of each of the gaming terminals for maintaining the clock of the central controller and the clocks of the game terminals in substantial synchronicity (9:12-26).

Referring to claim 63, Pool Party in view of Schneier disclose the circuitry for the game terminals and game server, but does not specifically disclose that the time for both the game server and terminals are synchronized. However, it is notoriously well known in the gaming art that gaming systems based upon time have gaming servers and player terminals that allow the each of their respective clocks to be synchronized in order to maintain accurate records for verification and auditing purposes. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to synchronize the gaming server and terminals to the lottery system of Goldman in view Schneier in order to maintain accurate records for verification and auditing purposes.

Referring to claim 65, Pool Party in view of Schneier disclose the monetary award amounts include at least some differing award amounts.

Referring to claim 66, Pool Party in view of Schneier disclose the monetary amounts are related to a relative frequency of occurrence of target times associated therewith.

Referring to claim 67, Pool Party in view of Schneier disclose the circuitry at each game terminal of the plurality configured for enabling each player to wager different monetary sums.

Referring to claim 68, Pool Party in view of Schneier disclose the circuitry at each game terminal of the plurality configured for enabling each player to wager a multiple of a unit monetary sum and place a plurality of time entries.

Conclusion

This is a continuation of applicant's earlier Application No. 09/866,389. All claims are drawn to the same invention claimed in the earlier application and could have been finally

rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ajc

JESSICA HARRISON
PRIMARY EXAMINER